ORIGINAL

Before the
FEDERAL COMMUNICATONS COMMISSION
Washington, D.C. 20554

Emergency Petition of Bell Atlantic-West Virginia for Authorization to End West Virginia's Bandwidth Crisis	)))	CC Docket No. 98-11

Emergency Request of Bell Atlantic-West Virginia For Interim Relief

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July 22, 1998

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Bell Atlantic-West Virginia[1] respectfully requests emergency relief under Section 706 so that it can provide the State of West Virginia with desperately needed high-speed connections to the Internet – something the current Internet backbone incumbents have failed to build. The emergency conditions in West Virginia justify the immediate, narrowly tailored relief described below while the Commission considers the broader relief requested in Bell Atlantic's previously filed petition for relief under section 706.[2]

As explained in the attached affidavits from several West Virginia officials, the state today has virtually no interLATA high-speed bandwidth available. Bell Atlantic has been working unsuccessfully with the State of West Virginia for more than six months to find one or more long distance carriers that are willing to provide high-speed links to connect the State of West Virginia's public Internet Access Point to the closest public or private Internet access point across the border in Pennsylvania. No incumbent Internet

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1 For purposes of this pleading, "Bell Atlantic" means Bell Atlantic-West Virginia.

2 The Commission can promptly grant this narrow request for incidental, interim relief while the Commission considers the full relief requested in our petition, because this relief is based on the record in the consolidated Section 706 proceeding which already has been fully briefed.

backbone provider will agree to provide even a single end to end link, and the only provider that has offered to provide even part of one link has failed to meet several prior commitments.

As the attached affidavits explain, this difficulty in procuring a single link to serve West Virginia's largest institutions illustrates the general interLATA bandwidth famine that threatens the State's economic future. Businesses have delayed or canceled plans to locate or expand information-intensive businesses, in particular call centers, in West Virginia because of the lack of high-capacity connections from West Virginia to the outside world. And West Virginia's schools and universities have been unable to get the high-speed access to the Internet that they need.

As a result, Bell Atlantic needs emergency authority to provide high capacity computer-to-computer links between the two LATAs within West Virginia and between West Virginia and the nearest Internet Access Points (whether public or private) in Pittsburgh and Richmond. Because these links are needed to connect West Virginia's schools and universities to the Internet, and to ensure that interLATA high-speed bandwidth is available by the start of the school year, Bell Atlantic requests an order granting this narrowly tailored relief by August 14, 1998.

1. West Virginia's Progressive Efforts are Nullified by Bandwidth Famine

The saga of the efforts to find even one high-speed link to connect West Virginia to Pittsburgh illustrates graphically the interLATA bandwidth famine in West Virginia that requires emergency relief.

West Virginia leads the nation in implementing progressive initiatives to bring broadband services to its citizens, and many of those initiatives have been undertaken in

conjunction with Bell Atlantic. But despite repeated requests, no incumbent Internet backbone provider will provide an end-to-end link connecting West Virginia to the Internet backbone.

WVNET, which is the agency responsible for managing many of the state's communications networks, currently provides Internet access for schools, colleges, universities, and state agencies via a single 22 Mbps connection between Morgantown, WV and Pittsburgh, PA. Recognizing the need to more than double its interstate Internet access bandwidth to meet the requirements for high-speed connections requested by higher education and K-12 institutions, WVNET late last year asked for bids to establish two higher-speed (34 Mbps) Internet access points in Morgantown and Charleston.

Bell Atlantic Internet Solutions (BAIS) submitted the winning bid in January 1998. Bell Atlantic, however, is barred from providing the interLATA links to connect these points of presence to the nearest Internet access points in Pennsylvania. As a result, since January 1998 Bell Atlantic has worked with the West Virginia State government (and the only non-facilities based provider, known as ICON, willing to provide the necessary long distance service on a resale basis) to try to find one or more facilities-based long distance carriers that would be willing to provide a high-speed connection between Morgantown – the location of West Virginia University – and a major Internet Access Point anywhere on the Internet backbone networks. The carriers that were contacted include AT&T, Sprint, MCI, Intermedia and others, all of whom uniformly declined to provide the link on the basis that facilities are not available. Affidavit of Henry Blosser, Attachment 1; Declaration of Charles T. Edwards, Attachment 2.

After more than 6 months of intensive effort, only a single carrier has agreed to provide even a portion of a single link. After heavy pressure, numerous "false starts" and missed commitments, WorldCom committed to provide a high-speed (DS-3, 45 Mbps) connection in Pittsburgh on July 27, 1998. But even Worldcom would only agree to provide a one mile long local connection is Pittsburgh, not a full high-speed link between Pittsburgh and Morgantown. Furthermore, the recent history of broken commitments to provide high-speed interLATA connections to West Virginia – see Affidavit of Matthew W. Brown, Attachment 3 -- provides continuing concern that Worldcom will meet even its current commitment.

Even assuming WorldCom meets its commitment, moreover, the only way to establish an end-to-end connection is for ICON to cobble together a patchwork solution to provide end-to-end connectivity. As currently envisioned, this network would work as follows. WorldCom will provide the access from its long distance point of presence in Pittsburgh to an Internet access point in Pittsburgh. A cable company will provide fiber to carry traffic between WorldCom's Pittsburgh facilities and Morgantown. Still another company then will install a thousand yards of fiber, along with associated electronics to match electronic equipment in a cable company field terminal. As a result, while ICON has gone the extra mile to serve West Virginia, there is no guarantee that even this single patchwork link will be up in time for the start of the school year, because it depends on so many different providers. And this single link will by no means solve the larger problem of providing the State of West Virginia with the high-speed interLATA bandwidth that is needed to make its efforts to provide high-speed bandwidth throughout the state a reality.

The consequences to West Virginia of failing to solve the bandwidth famine it is experiencing will be severe.

First, Internet access will be slowed or blocked at every public institution. The West Virginia government -- including state schools, colleges and universities -- will have Internet access far inferior to that enjoyed by other states.

Second, more than 150 K-12 schools which already have announced plans to upgrade existing Internet connections from 56 Kbps to 1.5 Mbps may delay or cancel improvements. An astonishing 98% of West Virginia K-12 schools have Internet access, 50% of all classrooms are wired. More than 25,000 K-12 teachers have been trained to use the Internet and have e-mail accounts, and Bell Atlantic has been a key driver in much of this activity through the "World School" program. Affidavit of Billy Jack Gregg, Attachment 4. But the bandwidth crisis threatens the continued expansion of these initiatives.

Third, West Virginia higher education institutions may postpone or cancel plans to establish high-speed access to the West Virginia 2001 network. WV 2001 is a joint State of West Virginia and Bell Atlantic initiative to build an advanced statewide communications infrastructure. Already well underway, WV 2001 consists of a digital, broadband technology platform – including fiber optic, cable, switching and electronic equipment – that can carry voice, data and video at the same time at high-speeds over an ATM architecture. "Bell Atlantic to Build High-Speed Network for Mountain State," http://www.bell-atl.com/ba-wv/atm.htm. More than 20 colleges and universities have requested high-speed ATM connections ranging from 45 to 155 Mbps. But the

interLATA bandwidth bottleneck will delay or cripple these programs unless solved quickly.

The difficulty in obtaining even a relatively small amount of bandwidth for the government of West Virginia illustrates the need for immediate relief. Even if a single high-capacity interLATA link is established, the exponential increase in data traffic going to and from West Virginia will soon require others to be built, and the state cannot afford to spend six months beating the bushes every time more bandwidth is needed.

More broadly, this one patchwork link will not solve the economic development problems that stem directly from West Virginia's general bandwidth famine. The progressive West Virginia Development Office established (with Bell Atlantic) the Office of the Future program to attract and retain information services and high-technology companies. West Virginia now has more than 18,000 workers in call centers that are dependent on high-speed connectivity. Without high-speed broadband connections, however, these companies will not locate in West Virginia, and West Virginia will be isolated from the part of the economy that is driving growth and progress elsewhere. Two information services companies already have tried to set up operations in West Virginia but failed when they could not procure adequate bandwidth. Affidavit of Thomas C. Burns, Attachment 5.

The current exhaustion of high-speed bandwidth from existing suppliers bodes even more ill for the future. Bandwidth demand continues to grow at rates that have been estimated at 1000% a year. http://www.zdnet.com/pcweek/ ews/0504/ 06asidge.html. Current providers cannot keep up with the demand, as Bell Atlantic noted in its previous filings in this consolidated Section 706 proceeding, and as is illustrated by the difficulties

procuring one simple link from Pittsburgh to Morgantown. Things will get worse before they get better. John Sidgmore, Vice Chairman of WorldCom, recently noted that ``We haven't seen the worst of bandwidth consumption yet. . . . If you're not scared, then you don't understand.'' "Net Industry Puts on a Show," Network World, 68 (May 11, 1998).

West Virginia cannot afford to be passed by while the backbone providers that do exist today concentrate on upgrading their congested links between major U.S. metropolitan areas. The WorldComs and AT&Ts of the world have chosen not to provide high-speed backbone links to West Virginia. Bell Atlantic is the only carrier that has shown a firm and unwavering commitment to making the investment necessary to bring broadband to West Virginia. But the high-speed connections built by Bell Atlantic within the state simply choke when encountering the interLATA bandwidth bottleneck. Bell Atlantic will link West Virginia to the world, if the Commission lets it.

2. The Commission Has Legal Authority to Grant the Requested Relief

As Bell Atlantic previously explained in these consolidated 706 proceedings, the Commission has the legal authority to grant Bell Atlantic relief to serve the citizens of West Virginia. Section 706(a) grants authority to the Commission to use regulatory forbearance to accelerate the availability of high-speed bandwidth to all Americans, and requires the Commission to act where, as in West Virginia, it is clear that such bandwidth is not available.[3] Petition of Bell Atlantic Corporation for Relief from Barriers to

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[3] The chief argument against the Commission's authority – that the Commission can never forbear from Section 271 of the Telecommunications Act because of Section 10 of the Act – ignores the plain words of Section 10. Section 10 only prohibits the Commission from forbearing from Section 271 when the Commission acts pursuant to Congress' broad command in Section 10 to forbear from unnecessary rules and

Deployment of Advanced Telecommunications Services, CC Dkt. 98-11, 4-12 (filed Jan. 26, 1998); Bell Atlantic Reply, 4-8 (filed May 6, 1998).

The lack of interLATA high-speed bandwidth to support Internet access to West Virginia's secondary (K-12) schools, see Affidavit of Billy Jack Gregg, creates particular urgency under Section 706. Section 706 requires the Commission and state regulatory authorities to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans *(including, in particular, elementary and secondary schools and classrooms*) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment." 47 U.S.C. § 157(a) (emphasis added).

Alternatively, the Commission has authority to modify LATA boundaries to grant the requested relief. Petition of Bell Atlantic at 11-12. The Commission has granted numerous petitions since the passage of the Telecommunications Act that permit local telephone companies to provide expanded local calling services between communities that lie on different sides of existing LATA boundaries. In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service at Various Locations, 12 FCC Rcd. 10646, CC Dock. 96-159 (July 3, 1997) (granting 23 of 24 requests). The Commission noted that "Section 3(25)(B) of the Act provides that BOCs may modify LATA boundaries, if such modifications are approved by the

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regulations. It does not bar forbearance from Section 271 under the narrowly targeted forbearance authority found in Section 706.

Commission." Id. In this case the requested relief is much narrower: modification of the boundaries for the limited purpose of operating dedicated high capacity computer-to-computer links over West Virginia LATA boundaries to connect West Virginia to the world.

3. The Commission Should Grant Immediate Relief

West Virginia needs emergency relief before the imminent start of the school year. This relief will ensure that West Virginia does not become a high-tech island, unto itself, and that the high-speed data links Bell Atlantic has constructed within West Virginia are not rendered useless by the current interLATA data traffic bottleneck. At present the six-lane superhighways within West Virginia feed into two-lane country roads leading in and out of the state.

Bell Atlantic respectfully requests that the Commission grant its petition to construct computer-to-computer lines linking West Virginia to the outside world by August 14, 1998. West Virginia's schools and universities start up in a month, and it will take some lead time for Bell Atlantic to establish the high-speed links necessary to cure the current famine in high-speed interLATA connections.

Respectfully Submitted,

David B. Frost/EG

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Edward Young
Michael E. Glover

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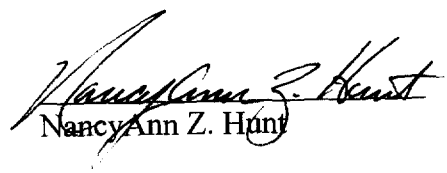
July 22, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of July, 1998 a copy of "Emergency Petition of Bell Atlantic-West Virginia for Authorization to End West Virginia's Bandwidth Crisis" was served by hand on the parties on the attached list.



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ATTACHMENT 1

Affidavit of Henry L. Blosser

STATE OF WEST VIRGINIA
COUNTY OF MONONGALIA, to-wit:

Before me, the undersigned authority, this day personally appeared Henry L. Blosser, who, being by me first day duly sworn, deposed and said:

1. My name is Henry L. Blosser. I am employed by the West Virginia Network for Educational Telecomputing (WVNET) as Director. I am authorized to make this affidavit, and have knowledge of the matters set forth in this affidavit either by virtue of my own personal knowledge or by virtue of my review of the records maintained in the regular course of business by WVNET.

2. As the Director, I am ultimately responsible for seeing that WVNET's key objectives are met by the most timely and cost effective means possible. Since one of WVNET's primary services is Internet connectivity, which it supplies to Higher Education, K-12, State Government agencies, and public libraries in the state of West Virginia, our key objectives include the optimum provisioning of this service to our customers.

3. WVNET's Internet bandwidth requirement is increasing exponentially and is crucial in the delivery of services to West Virginia's educational community. This increase in bandwidth demand is driven by the advanced deployment of direct, high-speed Intranet connectivity to higher education institutions (DS3 and OC3 ATM connections) and all public schools (56 kbps and T1 Frame Relay connections), the increased use of bandwidth intensive applications, such as video, and the increased number of users system wide.

4. WVNET recognized its immediate need for increased bandwidth to the Internet, so, in November, 1997, it released Request For Proposal #26181, requesting a dual Internet Access Point (IAP) arrangement that would provide a DS3 (or higher) at each site. This would replace the existing network, consisting of one West Virginia IAP located at Morgantown, WV (using 22 Mbps bandwidth and leased from UUNET). On January 16, 1998, WVNET awarded a thirty-six month contract to Bell Atlantic Internet Solutions (BAIS). This award was partially based on the understanding that ICON (BAIS's Global Service Provider (GSP)) had already successfully secured DS3 facilities from IXCs for both West Virginia IAPs.

5. Initial IXC contracts fell through due to a lack of available bandwidth and ICON has since been unable to locate any IXC willing and able to provide DS3 facilities to connect WVNET's Morgantown, West Virginia IAP to any major Internet Network Access Points. This is despite repeated requests to all backbone facilities-based providers, as well as resellers and agents.

6. ICON also experienced several readblocks before finally securing an IXC to provide DS3 facilities from the proposed Charleston IAP, but the facility was finally turned up for services on May 5, 1998.

7. Since a large percentage of WVNET's customers are higher education and public schools, it is imperative that the network upgrades are completed prior to the start of the fall terms this August.

8. IAP survivability is a basic requirement for the WVNET network. If, for any reason, Internet connectivity is lost out of either IAP, the network should reroute traffic to the other IAP. For this rerouting to work correctly, both IAPs should be served by the same GSP. Therefore, if BAIS cannot provide facilities out of the Morgantown IAP, WVNET cannot use the Charleston IAP's newly installed facilities either. Therefore, if the latest IXC commitment of July 27, 1998 is not met, WVNET will be forced to again delay the deployment of the Charleston IAP and, since BAIS was the low cost provider for the original RFP, pursue a more costly contract with another provider.

9. The penalties that WVNET is incurring for the continued delays in transferring to BAIS facilities is significant. They include extra facility costs of approximately $17,000 per month, inadequate available bandwidth, and decreased customer satisfaction, due to the Internet bottleneck that currently exists leaving the state.

10. Operational plans of WVNET are being delayed and West Virginia's progressive educational networks are being stymied by the inability and/or slow response of IXCs in meeting our state's telecommunication needs, both long and short range.

And further affiant sayeth not.

Henry L. Blosser

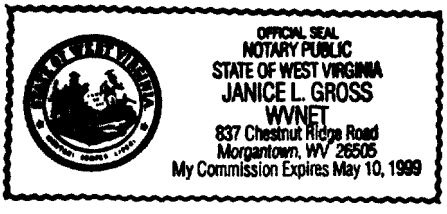
Henry L. Blosser
Director, WVNET

Taken, sworn to and subscribed before me this 13th day of July, 1998.

My commission expires: May 10, 1999

Janice L. Gross

NOTARY PUBLIC



ATTACHMENT 2

DECLARATION OF CHARLES T. EDWARDS

My name is Charles T. Edwards. I am employed by Bell Atlantic Internet Solutions (BAIS) as Manager of Network Implementation. I am responsible for securing BAIS's transmission faciltities and for oversight over BAIS' Global Service Provider (GSP) who provides interLATA services and backbone connections to meet the needs of Bell Atlantic Internet Solutions Inc. customers.

Bell Atlantic Internet Solutions Inc. provides retail, wholesale and private network Internet access to residential business, and government customers, and web-site management and intranet services to our commercial and government customers.

Bell Atlantic Internet Solutions Inc. was contracted by West Virginia Network for Educational Telecomputing (WVNET), a state agency, to provide certain high capacity Internet connections to support the State of West Virgina's high speed statewide data network. The network supports in-state data communications for higher education, state and local government agencies as well as interstate Internet access. The State of West Virginia also intended that K-12 public schools and public libraries would use the network for Internet access.

Bell Atlantic Internet Solutions Inc. and the GSP have been stonewalled in their efforts to obtain the bandwidth needed by the State of West Virginia. None of the National Backbone operators contacted has yet provided the requested connections. When contacted, each one claims to have no capacity available. Bell Atlantic - West Virginia is in the process establishing a very fast ATM-based backbone intraLATA network in West Virginia, but the refusal of the backbone providers to give the GSP, Bell Atlantic and the State of West Virginia the connectivity we need has harmed the state's citizens.

The events and timeline for our attempts to get high bandwidth capacity out of the state of West Virginia follow:

October 1997 – Bell Atlantic Internet Services Inc. requested the GSP to order DS3 bandwidth from both Charleston and Clarksburg LATAs.

November 1997 - The GSP placed orders with all of the largest carriers including Worldcom, Sprint, MCI, and AT&T. Each reported that they have no bandwidth available.

December 1997 - The GSP contracted with Atlantic Media for a DS3 from Charleston to Richmond. The GSP also had a confirmed contract with Atlantic Media for service from the Clarksburg LATA to Pittsburgh but this contract fell through due to lack of bandwidth.

January 1998 – Bell Atlantic Internet Solutions Inc. contacted Intermedia on behalf of the GSP and found no bandwidth available from either lata.

February 1998 - BAIS contacted Sprint and MCI on behalf of the GSP and found no bandwidth available from either lata.

March and April 1998 - GSP continued to work with 2nd tier carriers including GST, Intermedia, American Telesis, AEP, IXC and ABNS. To date, no bandwidth out of the Clarksburg LATA has been identified from those carriers.

April 1998 - BAIS and the GSP turned up the Atlantic Media DS3 service out of the Charleston lata. The interLATA portion of that circuit is provided by Valleynet (a local power company subsidiary).

May 1998 – Bell Atlantic Internet Solutions continues to work with the GSP and all carriers in attempts to secure bandwidth out of the Clarksburg LATA. We await a confirmation of facilities from ABNS.

I and my staff have been persistent in monitoring this quest for bandwidth and have done everything which could be reasonably expected to secure the Internet connection needed. I believe, based on my contacts with the GSP, that their efforts have been likewise thorough and aggressive in pursuit of serving the customers of the West Virginia state data network.

The evident lack of facilities and of carriers willing and able to remedy the shortage is the sole problem hampering our ability to deliver on our commitments to Bell Atlantic of West Virginia and their client, the State of West Virginia.

I do declare that the foregoing is true and correct to the best of my knowledge.

Charles T. Edwards
Manager
Bell Atlantic Internet Solutions Inc.

May 6, 1998

ATTACHMENT 3

Affidavit of Matthew W. Brown

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit:

Before me, the undersigned authority, this day personally appeared Matthew W. Brown, who, being by me first duly sworn, deposed and said:

1. My name is Matthew W. Brown. I am employed by the Department of Administration of the State of West Virginia as Manager of the Communications Center for the Information Services and Communications Division (IS&C). I am authorized to make this affidavit, and have knowledge of the matters set forth in this affidavit either by virtue of my own personal knowledge or by virtue of my review of the records maintained in the regular course of business by the State of West Virginia.

2. As the Manager of the IS&C Communications Center for the Department of Administration, I am responsible for securing backbone facilities, including intraLATA, interLATA and Interstate facilities, to meet the needs of the State of West Virginia's Unified Enterprise Telecommunications Network (SUN).

3. The bandwidth requirements of the SUN are increasing dramatically and are becoming vital in the State's delivery of services to its citizens. This is due to the deployment of statewide networks for departments of state government, higher education and public schools, the addition of new data and video applications (e.g., distance learning and remote video court proceedings) and the tremendous growth statewide in Internet usage.

4. The State of West Virginia's SUN backbone currently serves as the delivery system for Internet access for the K-12 public education system, public libraries, West Virginia higher education institutions and state government employees. The West Virginia Network for Educational Telecomputing (WVNET) currently has one Internet Access Point (IAP) in West Virginia, located at Morgantown, West Virginia.

5. WVNET currently connects to the Internet via a DS3 facility (using 22 Mbps bandwidth) leased from UUNET, an InterExchange Carrier (IXC). This connection serves all West Virginia enterprise Internet traffic. In late 1997, WVNET released Request For Proposal #26181, requesting DS3 dedicated Internet service (or higher) via a dual IAP arrangement. On January 16, 1998, Bell Atlantic Internet Solutions (BAIS) was notified that it was selected as the successful respondent to that RFP. Since that time, ICON (BAIS's Global Service Provider) has been unable to locate any IXC willing and able to provide DS3 facilities to connect WVNET's Morgantown, West Virginia IAP to any major Internet Network Access Points. This is, I am advised, despite repeated requests to all backbone facilities-based providers, as well as resellers and agents. ICON also experienced several roadblocks before finally securing an IXC to provide DS3 facilities from the proposed Charleston IAP.

6. My recent backbone facility requests to IXCs have been met with schedule delays and facility shortages. Two examples of this are cited below.

DS1 from Charleston, West Virginia, to Bluefield, West Virginia:
Ordered: 1-31-1997
Date Due: 3-1-1997
Date Established: 3-26-1997

DS1 from turn-up on a DS3: Charleston, West Virginia, to Clarksburg, West Virginia:
Ordered: 1-7-1997
Date Due: 1-20-1997
Date Established: 2-7-1997

Service establishment dates fell outside of the contracted intervals for service as indicated by the due dates. In both cases, a lack of network facilities on the part of the IXCs was the stated cause for the missed due date. In my experience, the State of West Virginia has not received deployment, on a reasonable and timely basis, for advanced telecommunications capability on an InterLATA order and for connections to the Internet backbone.

7. Operational plans of WVNET, the State of West Virginia and its user departments are being delayed by the inability and/or slow response of IXCs in meeting our state's telecommunications needs, both long and short range.

And further affiant sayeth not.

Matthew W. Brown
Manager, IS&C Communications Center
West Virginia Department of Administration

Taken, sworn to and subscribed before me this 5th day of May, 1998.

My commission expires: 5-20-2002

OFFICIAL SEAL
STATE of WEST VIRGINIA
NOTARY PUBLIC
VICKY E. HATFIELD
Secretary of State's Office
State Capitol, Bldg. 1, Suite 157K
Charleston, WV 25305-0775
My Commission Expires 5-20-2002

Vicky E Hatfield
NOTARY PUBLIC

ATTACHMENT 4

AFFIDAVIT OF BILLY JACK GREGG

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, To Wit:

This day personally appeared BILLY JACK GREGG, and upon his oath, swore as follows:

1. My name is Billy Jack Gregg. I have been the Director of the Consumer Advocate Division of the Public Service Commission of West Virginia since 1981. The Consumer Advocate Division (CAD) is charged with the responsibility of representing West Virginia utility customers in federal and state rate proceedings and other related matters. In my position as Director of the CAD I have personally been involved in numerous rate proceedings and incentive plan negotiations involving Bell Atlantic-West Virginia (BA-WV) and other telephone companies in West Virginia. I have personal knowledge of the matters set forth below.

2. Beginning in 1988 the CAD, Staff of the Public Service Commission, BA-WV and other parties have entered into a series of agreements which provide for rate caps and incentive regulation of BA-WV in West Virginia. Each of these agreements has been approved by the Public Service Commission of West Virginia and the terms of each agreement have been binding on BA-WV. An integral part of each of these agreements has been a commitment on the part of BA-WV to continue to invest in advanced telecommunications technology in West Virginia.

3. In the 1994 incentive regulation agreement BA-WV was required to provide direct, high-speed Internet access to all the K-12 public schools in its West Virginia service area within a two and one-half year period. That action, in a program known as World School, is now completed. Virtually all public schools in the state now have 56 KBPS packet-switched Internet access, along with a router and internal connections to enable multiple computers and labs within the schools to access the Internet simultaneously.

4. In the 1997 incentive regulation agreement BAWV was required to take several specific steps to improve the state's telecommunications infrastructure. Specifically, the company committed to introduce Asynchronous Transfer Mode (ATM) technology and to support the upgrade of internet access points (IAP's) for the West Virginia state network, WVNET. Pursuant to the agreement BA-WV would provide grants up to an annual limit of $240,000 to offset the cost of a second IAP for WVNET.

5. In early 1998 an affiliate of BA-WV, Bell Atlantic Internet Solutions (BAIS) won a competitive bid to upgrade WVNET's IAP's through a dual-IAP configuration. Under the dual configuration, an IAP would be located in the south within the Charleston LATA, and in the north within the Clarksburg LATA. Each IAP would have a 34 MBPS switched multi-megabit service (SMDS) connection to a point on the Internet backbone located outside of West Virginia, across LATA boundaries. Under the terms of the 1997 incentive regulation agreement BAWV agreed to furnish a grant for hardware, software and Internet access equivalent to the cost of the second IAP.

6. Based on my understanding of federal law, neither BAWV, nor BAIS, nor any other